

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6021

In Re: JONATHAN T. HOUGH

Petitioner.

On Petition for Writ of Mandamus. (CA-02-990)

Submitted: January 30, 2003

Decided: February 5, 2003

Before WIDENER, NIEMEYER, and TRAXLER, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Jonathan T. Hough, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Jonathan T. Hough petitions for a writ of mandamus requesting that we vacate a magistrate judge's order denying his motion to amend his 28 U.S.C. § 2255 (2000) motion, which remains pending in the district court.

Mandamus relief is available only when the petitioner has a clear right to the relief sought. See In re First Fed. Sav. & Loan Assn., 860 F.2d 135, 138 (4th Cir. 1988). Further, mandamus is a drastic remedy and should only be used in extraordinary circumstances. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). Mandamus may not be used as a substitute for appeal. See In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

With these standards in mind, we conclude Hough fails to establish he is entitled to mandamus relief. Accordingly, we deny his petition. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED